



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in the Lok Sabha on the 14th August, 2001:—

BILL No. 59 OF 2001

*A BILL to declare the Indian Council of World Affairs to be an institution of national importance and to provide for its incorporation and matters connected therewith.*

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Council of World Affairs Act, 2001.

Short title and  
commence-  
ment.

(2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 1st day of September, 2000.

2. Whereas the objects of the Indian Council of World Affairs, a society registered under the Societies Registration Act, 1860 are such as to make the institution one of national importance, it is hereby declared that the institution, known as the Indian Council of World Affairs, is an institution of national importance.

Declaration of  
the Indian  
Council of  
World Affairs  
as institution  
of national im-  
portance.

## Definitions.

3. In this Act, unless the context otherwise requires,—

- (a) "appointed day" means the date of commencement of this Act;
- (b) "Chairperson" means the Chairperson of the Governing Body;
- (c) "Council" means the Indian Council of World Affairs incorporated under section 4;
- (d) "Director-General" means the Director-General of the Council;
- (e) "existing Council" means the Indian Council of World Affairs, a society registered under the Societies Registration Act, 1860 and functioning as such immediately before the appointed day; 21 of 1860.
- (f) "Fund" means the Fund of the Council referred to in section 18;
- (g) "Governing Body" means the Governing Body of the Council;
- (h) "member" means a member of the Council and includes the President and Vice-President;
- (i) "President" means the President of the Council;
- (j) "regulations" means the regulations made under this Act;
- (k) "rules" means the rules made under this Act;
- (l) "Vice-Presidents" means the Vice-Presidents of the Council.

## Incorporation of the Council.

4. (1) The Indian Council of World Affairs is hereby constituted as a body corporate by the name of the Indian Council of World Affairs and as such body corporate it shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by that name sue and be sued.

(2) The head office of the Council shall be at Delhi and the Council may, with the previous approval of the Central Government, establish branches at other places in India.

## Transfer of assets and liabilities of the existing Council to the Council.

5. (1) On and from the appointed day,—

- (a) all properties and other assets vested in the existing Council immediately before that day, shall vest in the Council;
- (b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing Council immediately before that day for or in connection with the purposes of the existing Council, shall be deemed to have been incurred, entered into and engaged to be done by, with or for the Council;
- (c) all sums of money due to the existing Council, immediately before that day, shall be deemed to be due to the Council;
- (d) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Council, immediately before that day, may be continued or instituted by or against the Council; and
- (e) every employee holding any office under the existing Council immediately before that day, shall, on that day, hold his office or service under the Council with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting; and shall continue to do so unless and until his employment under the Council is duly terminated or until his remuneration and other conditions of service are duly altered by the Council.

14 of 1947.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the absorption of any employee by the Council in its regular service under this section shall not entitle such employee to any compensation under that Act or any other law and no such claim shall be entertained by any court, tribunal or other authority.

6. (1) Every person having possession, custody or control of property forming part of the properties and other assets referred to in clause (a) of sub-section (1) of section 5 shall deliver forthwith such property to the Director-General.

Obligation to transfer property or assets.

(2) Any person incharge of the property and other assets of the existing Council immediately before the commencement of this Act shall, within ten days from that day, furnish to the Director-General a complete inventory of all properties and assets (including particulars of book debts and investments and belongings) immediately before the commencement of this Act and also of all agreements entered into by the existing Council or any person on its behalf.

7. (1) On and from the 1st day of September, 2000 and until the appointment of date under sub-section (2), the Council shall consist of the following members, namely:—

Composition of the Council.

(a) the Union Minister for External Affairs who shall be the President, *ex officio*;

(b) a Vice-President, who shall be elected by the Council from amongst its members;

(c) a Director-General, who shall be appointed by the Central Government;

(d) three members to be nominated by the Central Government who are distinguished in the field of diplomacy, international affairs and law;

(e) four members to be nominated by the Central Government from amongst experts in the fields of history, economics, security studies and social sciences;

(f) two members to be nominated by the Central Government from amongst the Vice-Chancellors of Universities;

(g) four members to be nominated by the Council.

(2) On and from such date as may be appointed by the Central Government by notification in the Official Gazette, the Council shall consist of the following members, namely:—

(a) the Vice-President of India who shall be the President, *ex officio*;

(b) three Vice-Presidents; Union Minister for External Affairs, *ex officio* and two others to be nominated by the Council from amongst its members;

(c) a Director-General to be appointed by the Ministry of External Affairs;

(d) five members of the Lok Sabha to be nominated by the Speaker of the Lok Sabha and three members of the Rajya Sabha to be nominated by the Chairman of the Rajya Sabha;

(e) seven members, who are distinguished in the field of diplomacy, international affairs, international law, Multilateral or United Nations affairs, security and disarmament to be nominated by the Council;

(f) seven members, who are representatives (of which at least two shall be the Vice-Chancellors) of Universities or research institutions of higher learning from amongst experts in the fields of history, economics and other social sciences to be nominated by the Council;

(g) seven members, who are either media personalities or representatives of organisations such as India International Centre, Centre for Policy Research, Indian Council of Social Science Research, Institute of Defence Studies and Analyses, Indian Council of Cultural Relations, and interested in the work and objectives of the Council to be selected by the Governing Body of the Council;

(h) five members who are representatives of Business or Chambers of Commerce, Federation of Indian Chambers of Commerce and Industry, Confederation of Indian Industry, Associated Chambers of Commerce and Industry of India, Federation of Indian Export Organisations to be nominated by the Governing Body of the Council;

(i) five members from the Ministry of External Affairs, *ex officio* [including Foreign Secretary, Financial Advisor, and Dean (Foreign Service Institute)], to be nominated by the Chairperson of the Governing Body;

(j) five members to be nominated by the Central Government to represent respectively the Ministries of the Central Government dealing with Education, Culture, Urban Development, Science and Technology and Defence, *ex officio*.

(3) Notwithstanding anything contained in clauses (b), (e), (f), (g) and (h), the first such appointments or nominations or selections under the Act shall be made by the Central Government.

(4) It is hereby declared that the office of the member of the Council shall not disqualify its holder for being chosen as, or for being, a Member of either House of Parliament.

(5) A person shall be disqualified for being nominated or selected as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court.

Term of  
office and  
vacancies  
among  
members.

8. (1) Save as otherwise provided in this section, the term of office of a member shall be three years from the date of his nomination.

(2) The term of office of the member nominated to fill a casual vacancy shall continue for remainder of the term of the member in whose place he is nominated.

(3) A member shall, unless the Central Government otherwise directs, continue in office until another person is nominated as a member in his place.

(4) The Central Government shall remove a member if he—

(a) becomes subject to any of the disqualifications mentioned in sub-section (5) of section 7; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Council, absent from three consecutive meetings of the Council; or

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

(5) A member shall, unless disqualified under sub-section (5) of section 7, be eligible for re-nomination.

(6) A member may resign from his office by writing under his hand addressed to the Central Government but shall continue in his office until his resignation is accepted by that Government.

(7) The manner of filling vacancies among members shall be such as may be prescribed by rules.

Powers and  
functions of  
President.

9. The President shall exercise such powers and discharge such functions as are laid down in this Act or as may be prescribed by rules.

Powers and  
functions of  
Vice-Presidents.

10. The Vice-Presidents shall exercise such of the powers and perform such of the functions of the President as may be prescribed by rules or as may be delegated to him by the President.

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|--|---|
| 11. Members shall receive such allowances, if any, from the Council as may be prescribed by rules.   | Allowances of members.                          |
| 12. The Council shall hold its first meeting at such time and place as may be appointed by the Central Government and shall observe such rules of procedure in regard to the transaction of business at the first meeting as may be laid down by that Government; and thereafter the Council shall meet at such times and places and observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by regulations. | Meetings of Council.                            |
| 13. The objects of the Council shall be—   | Objects of Council.                             |
| (a) to promote the study of Indian and international affairs so as to develop a body of informed opinion on international matters;   |   |
| (b) to promote India's relations with other countries through study, research, discussion, lectures, exchange of ideas and information with other organisations within and outside India engaged in similar activities;  |   |
| (c) to serve as a clearing house of information and knowledge regarding world affairs;   |   |
| (d) to publish books, periodicals, journals, reviews, papers, pamphlets and other literature on subjects covered under clauses (a) and (b);  |   |
| (e) to establish contacts with organisations promoting objects mentioned in this section;  |   |
| (f) to arrange conferences and seminars to discuss and study the Indian policy towards international affairs; and  |   |
| (g) to undertake such other activities for the promotion of ideas and attainment of the above-mentioned objects.   |   |
| 14. (1) There shall be a Governing Body of the Council which shall be constituted by the Council from amongst its members in such manner as may be prescribed by regulations.  | Governing Body and other committees of Council. |
| (2) The Governing Body shall be the executive committee of the Council and shall exercise such powers and discharge such functions as the Council may, by regulations made in this behalf, confer or impose upon it.   |   |
| (3) On and from such date as may be appointed by the Central Government by notification in the Official Gazette, the Union Minister for External Affairs shall be the Chairperson of the Governing Body and shall exercise such powers and discharge such functions as may be prescribed by regulations.   |   |
| (4) The procedure to be followed by the Governing Body in the exercise of its powers and discharge of its functions and the term of office of, and the manner of filling vacancies among the members of the Governing Body, shall be such as may be prescribed by regulations.   |   |
| (5) Subject to such control and restrictions as may be prescribed by rules, the Council may constitute as many standing committees and as many <i>ad hoc</i> committees as it thinks fit for exercising any power or discharging any function of the Council or for inquiring into, or reporting or advising upon, any matter which the Council may refer to them.   |   |
| (6) The Chairperson and members of the Governing Body or a standing committee or an <i>ad hoc</i> committee shall receive such allowances as may be prescribed by regulations.   |   |
| 15. (1) There shall be a chief executive officer of the Council who shall be designated as the Director-General and shall be appointed by the Ministry of External Affairs.  | Staff of Council.                               |
| (2) The Director-General shall act as the Secretary to the Council as well as to the Governing Body.   |   |
| (3) The Director-General shall exercise such powers and discharge such functions as may be prescribed by regulations or as may be delegated to him by the Council or the President or the Governing Body or the Chairperson.   |   |

(4) The Financial Advisor of the Ministry of External Affairs shall be the Financial Advisor of the Council.

(5) Subject to such rules as may be made in this behalf, the Council may appoint such number of other officers and employees as may be necessary for the exercise of its powers and efficient discharge of its functions and may determine the designations and grades of such other officers and employees.

(6) Subject to such rules as may be made in this behalf, the Director-General and other officers and employees of the Council shall be entitled to such salary and allowances and shall be governed by such conditions of service in respect of leave, pension, gratuity, provident fund and other matters, as may be prescribed by regulations made in this behalf.

Functions of Council.

16. The Council shall undertake various plans to promote, organise and implement various programmes for efficiently achieving the objects of the Council specified in section 13 and shall also perform such other functions as the Central Government may, by rules, prescribe.

Payment to Council.

17. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council in each financial year such sums as may be considered necessary for the exercise of powers and efficient discharge of functions of the Council under this Act.

Fund of Council.

18. (1) The Council shall maintain a Fund to which shall be credited to—

(a) all moneys received from the Central Government;

(b) all moneys received by the Council by way of grants, gifts, donations, benefactions, bequests or transfers; and

(c) all moneys received by the Council in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Council may, subject to the approval of the Central Government, decide.

(3) The Fund shall be applied towards meeting the administrative and other expenses of the Council, including expenses incurred in the exercise of its powers and discharge of its functions under section 16 or in relation to any of the activities referred to therein or for anything relatable thereto.

Budget of Council.

19. The Council shall prepare, in such form and at such time every year, as may be prescribed by rules, a budget in respect of the financial year next ensuing, showing the estimated receipts and expenditure of the Council and shall forward to the Central Government such number of copies thereof as may be prescribed by rules.

Accounts and audit.

20. (1) The Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as the Central Government may, by rules, prescribe and in accordance with such general directions as may be issued by that Government, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Council shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Council to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Council shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office or offices of the Council.

(4) The accounts of the Council as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report

thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

21. The Council shall prepare every year, in such form and at such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Annual report.

22. All orders and decisions of the Council shall be authenticated by the signature of the President or the Vice-President and all other instruments issued by the Council shall be authenticated by the signature of the Director-General or any other officer of the Council authorised by the Council in this behalf.

Authentication of orders and instruments of Council.

23. No act or proceeding of the Council, Governing Body or any standing or *ad hoc* committee under this Act shall be invalid merely by reason of—

Vacancy, etc., not to invalidate proceedings of the Council.

(a) any vacancy in, or any defect in the constitution of, the Council; or

(b) any defect in the appointment of a person acting as a member of the Council; or

(c) any irregularity in the procedure of the Council not affecting the merits of the case.

24. The Council shall furnish to the Central Government such reports, returns and other information as that Government may require from time to time.

Reports, returns and information.

25. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of filling vacancies among members under sub-section (7) of section 8;

(b) the powers and functions to be exercised and discharged by the President and the Vice-Presidents under sections 9 and 10, as the case may be;

(c) the allowances to be paid to the members under section 11;

(d) the control and restrictions in relation to the constitution of standing and *ad hoc* committees under sub-section (5) of section 14;

(e) the number of other officers and employees that may be appointed by the Council and the manner of such appointment under sub-section (5) of section 15;

(f) the salaries and allowances payable to the Director-General and other officers and employees of the Council under sub-section (6) of section 15;

(g) such other functions to be performed by the Council under section 16;

(h) the form in which and the time at which the budget shall be prepared by the Council and the number of copies thereof to be forwarded to the Central Government under section 19;

(i) the form in which an annual statement of accounts including the balance-sheet shall be prepared by the Council under sub-section (1) of section 20;

(j) the form in which and the time at which the annual report of the activities of the Council shall be submitted to the Central Government under section 21;

(k) any other matter which has to be or may be prescribed by rules.

26. (1) The Council may, with the previous approval of the Central Government, make regulations consistent with the provisions of this Act and the rules to carry out the provisions of this Act.

Power to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the summoning and holding of meetings, other than the first meeting of the Council, the time and place where such meetings are to be held and the transaction of business at such meetings under section 12;

(b) the manner in which the Governing Body shall be constituted under sub-section (1) of section 14;

(c) the powers and functions to be exercised and discharged by the Governing Body and the Chairperson under sub-sections (2) and (3) of section 14;

(d) the procedure to be followed by the Governing Body in exercise of its powers and discharge of its functions and the term of office of, and the manner of filling vacancies among, the members of the Governing Body under sub-section (4) of section 14;

(e) the allowances to be paid to the Chairperson and members of the Governing Body, standing and *ad hoc* committees under sub-section (6) of section 14;

(f) the powers and functions to be exercised and discharged by the Director-General under sub-section (3) of section 15;

(g) the conditions of service of the Director-General and other officers and employees of the Council under sub-section (6) of section 15;

(h) any other matter which has to be or may be prescribed by regulations.

(3) Notwithstanding anything contained in sub-section (1), the first regulations under this Act shall be made by the Central Government and any regulations so made may be altered or rescinded by the Council in exercise of its powers under sub-section (1).

Rules and regulations to be laid before Parliament.

27. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties.

28. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

29. (1) The Indian Council of World Affairs (Second) Ordinance, 2001 is hereby repealed.

Ord. 3 of 2001.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.



## STATEMENT OF OBJECTS AND REASONS

The Indian Council of World Affairs (ICWA) was established in Delhi in 1943, under the Societies Registration Act, 1860. Amongst others, the objects of the Council include promoting study of Indian and International Affairs. Within a few years of its establishment, the Indian Council of World Affairs became a world renowned institution providing outstanding facilities for study and research. Also, the Sapru House Library became one of India's premier libraries, and the Indian Council of World Affairs became a distinguished forum for Indian and foreign dignitaries to speak on foreign policy issues.

2. It was from 1981 that the Society's functioning witnessed marked deterioration, and in consequence, the institution started losing its standing. Academics, students and intellectuals distanced themselves from the affairs of the Council. There then also occurred many violations of the terms of the lease of land given by the Government to the Indian Council of World Affairs. The premises of the Council were sublet to other organizations and non-payment of dues to the Government mounted. Complaints were also received by the Government about deterioration in the maintenance of the Council Library. Since then, there have been consistent demands for intervention of the Government.

3. In order to check further deterioration of this important institution and to provide for its revitalization, the Indian Council of World Affairs Ordinance, 2000 (Ord. 3 of 2000) was promulgated by the President on September 1, 2000. The Ordinance, *inter alia*, provides for declaration of the Indian Council of World Affairs as an institution of national importance, its incorporation, a broad-based composition and provision for financial assistance.

4. The Indian Council of World Affairs Bill, 2000 to replace the Indian Council of World Affairs Ordinance, 2000 was introduced in the Lok Sabha during the Winter Session of Parliament. The Bill was considered and passed by the Lok Sabha on 18th December, 2000. The Bill was listed for consideration in the Rajya Sabha on 21st December, 2000, but, before it could be taken up for consideration, the Rajya Sabha was adjourned. The Indian Council of World Affairs Ordinance, 2000 lapsed after the expiration of six weeks from the date of re-assembly of Parliament. In order to maintain continuity of action, the Indian Council of World Affairs Ordinance, 2001 (Ord. 1 of 2001) was promulgated on 5th January, 2001.

5. The Government decided to withdraw the Indian Council of World Affairs Bill, 2000 from the Rajya Sabha and introduce the Indian Council of World Affairs Bill, 2001 to replace the Indian Council of World Affairs Ordinance, 2001 in the Lok Sabha, during the Budget Session of Parliament. Owing to repeated adjournment of the two Houses of Parliament, the Indian Council of World Affairs Bill, 2000 could be neither withdrawn, nor the Indian Council of World Affairs Bill, 2001 could be introduced in Parliament. Accordingly, the Indian Council of World Affairs Ordinance, 2001 (Ord. 1 of 2001) also lapsed upon the expiry of six weeks from the re-assembly of Parliament. In order to maintain continuity of Government action, and as Parliament was not in session, and since there was urgency, the Indian Council of World Affairs (Second) Ordinance, 2001 (Ord. 3 of 2001) was promulgated by the President on 8th May, 2001.

6. The Indian Council of World Affairs Bill, 2001 seeks to replace the Indian Council of World Affairs (Second) Ordinance, 2001 with certain modifications mainly pertaining to composition of the Council. The proposed Council is much more broad-based. The President of the Council would now be the Vice-President of India, *ex officio* and other members of the Council include Members of Parliament nominated by the Speaker of the Lok Sabha and Chairman of the Rajya Sabha.

7. The Indian Council of World Affairs Bill, 2001 seeks to replace the Indian Council of World Affairs (Second) Ordinance, 2001 with above modifications.

NEW DELHI;  
The 20th July, 2001.

JASWANT SINGH.

**FINANCIAL MEMORANDUM**

Clause 17 of the Bill enables the Central Government to pay, after due appropriation to the Council in each financial year such sums as may be considered necessary for the Council to fulfil its approved programmes and for the due discharge of its functions.

2. It is estimated that an expenditure of rupees fifty lakhs may be necessary as non-recurring expenditure at the time of the incorporation of the Council. The recurring expenditure by way of payment to the Council for the financial year 2001-2002 is estimated at rupees fifty lakhs. It is not possible at this stage to estimate the recurring expenditure for the subsequent financial years. However, both recurring and non-recurring expenditure will be met out of the budgetary allocations of the Ministry of External Affairs.

3. The provisions of the Bill do not involve any other expenditure of recurring or non-recurring nature.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules by notification in the Official Gazette to carry out the provisions of the Act. The matters in respect of which such rules may be made are specified therein. These matters relate, *inter alia*, to the manner of filling vacancies among members of the Council, the powers and functions to be exercised and discharged by the President and the Vice-Presidents, the control and restrictions in relation to the constitution of standing and *ad hoc* committees, etc.

2. Clause 26 of the Bill empowers the Council to make, with the previous approval of the Central Government regulations consistent with the provision of the Act and the rules made thereunder. The matters in respect of which such regulations may be made are specified therein. These matters relate, *inter alia*, to the procedure for conducting, business at meetings other than first meeting of the Council, the manner of constituting the Governing Body and standing and *ad hoc* committees, powers and functions of the Governing Body and the Chairperson thereof, etc.

3. The matters in respect of which rules and regulations may be made are matters of administrative details and procedure and, as such, the delegation of legislative power is of a normal character.

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*Memorandum Indicating the Modifications Contained in the Bill to replace  
the Indian Council of World Affairs (Second) Ordinance, 2001*

Modifications have been made in clauses 7 and 14 of the Bill with a view to make the composition of the Council more broad-based.

## BILL No. 73 of 2001

*A BILL to provide for the establishment of the institution of Lokpal to inquire into allegations of corruption against public functionaries and for matters connected therewith.*

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Lokpal Act, 2001.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “Chairperson” means the Chairperson of the Lokpal;

(b) “competent authority”, in relation to—

(i) the Prime Minister, means the House of the People;

(ii) a member of the Council of Ministers, other than the Prime Minister, means the Prime Minister; and

(iii) a member of Parliament, other than a Minister means the Council of States in the case of a member of that Council and the House of the People in the case of a member of that House;

(c) "complaint" means a complaint alleging that a public functionary has committed any offence punishable under the Prevention of Corruption Act, 1988;

49 of 1988.

(d) "Lokpal" means the institution established under section 3;

(e) "Member" means a Member of the Lokpal;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "public functionary" means a person who—

(i) holds or has held the office of the Prime Minister, Minister, Minister of State or Deputy Minister of the Union; or

(ii) is or has been a member of either House of Parliament.

## CHAPTER II

### MACHINERY FOR INQUIRIES

Establishment  
of Lokpal.

3. (1) As from the date of the commencement of this Act, there shall be established, for the purpose of making inquiries in respect of complaints under this Act, an institution to be called the "Lokpal".

(2) The Lokpal shall consist of—

(a) a Chairperson who is or has been a Chief Justice or a Judge of the Supreme Court; and

(b) two Members who are or have been the Judges of the Supreme Court or the Chief Justices of the High Courts.

(3) The Chairperson and every other Member shall, before entering upon his office, make and subscribe before the President, or a person appointed in that behalf by the President, an oath or affirmation in the form set out in the Schedule.

Appointment  
of Chairperson  
and Members.

4. (1) The Chairperson and Members shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of—

- |     |  |            |
|-----|--|------------|
| (a) | the Vice-President of India  | —Chairman; |
| (b) | the Prime Minister   | —member;   |
| (c) | the Speaker of the House of the People   | —member;   |
| (d) | the Minister in-charge of the Ministry of Home Affairs in the Government of India                  | —member;   |
| (e) | the Leader of the House other than the House in which the Prime Minister is a member of Parliament | —member;   |
| (f) | the Leader of the Opposition in the House of the People  | —member;   |
| (g) | the Leader of the Opposition in the Council of States  | —member:   |

Provided further that in case, there is no Leader of Opposition in the House of the People or the Council of States, the leader of the single largest group or party in opposition to the Government, as the case may be, in such House or Council shall be deemed to be a member of the Committee specified in clause (f) or clause (g), as the case may be:

Provided also that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.

5. The Chairperson or a Member shall not be a member of Parliament or a member of the Legislature of any State or Union territory and shall not hold any office of trust or profit (other than his office as the Chairperson or a Member) or be connected with any political party or carry on any business or practise any profession and accordingly, before he enters upon his office, a person appointed as the Chairperson or a Member, as the case may be, shall, if—

Chairperson and Members to be ineligible to hold other office.

(a) he is a member of Parliament or of the Legislature of any State or Union territory, resign such membership; or

(b) he holds any office of trust or profit, resign from such office; or

(c) he is connected with any political party, sever his connection with it; or

(d) he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) he is practising any profession, cease to practise such profession.

6. (1) The Chairperson and every other Member shall hold office as such for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier:

Term of office and other conditions of service of Chairperson and Members.

Provided that he may—

(a) by writing under his hand addressed to the President, resign his office; or

(b) be removed from his office in the manner provided in section 7.

(2) On ceasing to hold office, the Chairperson and every other Member shall be ineligible for—

(i) reappointment in the Lokpal;

(ii) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the President by warrant under his hand and seal; and

(iii) further employment to any other office of profit under the Government of India or the Government of a State.

(3) The salary, allowances and other conditions of service of—

(i) the Chairperson shall be the same as those of the Chief Justice of India;

(ii) other Members shall be the same as those of a Judge of the Supreme Court:

Provided that if the Chairperson or a Member is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of service as the Chairperson or, as the case may be, as a Member, be reduced—

(a) by the amount of that pension; and

(b) if he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension:

Provided further that the salary, allowances and pension payable to, and other conditions of service of, the Chairperson or a Member shall not be varied to his disadvantage after his appointment.

7. The Chairperson or a Member shall not be removed from his office except by an order made by the President on the ground of proved misbehavior or incapacity after an inquiry made by a Committee consisting of the Chief Justice of India and two other Judges of the Supreme Court next to the Chief Justice in seniority, in which the Chairperson or the Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Removal of Chairperson or Members.

Member to act as Chairperson or to discharge his functions in certain circumstances.

8. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise the President may, by notification, authorise the senior-most Member to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise the senior-most Member available, as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Staff of Lokpal.

9. (1) The Lokpal shall, for the purpose of assisting it in the discharge of its functions (including verification and inquiries in respect of complaints) under this Act, appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with the Lokpal.

(2) Without prejudice to the provisions of sub-section (1), the Lokpal may, for the purpose of dealing with any complaint or class of complaints, secure—

(i) the services of any officer or employee or investigating agency of the Central Government or a State Government with the concurrence of that Government, or

(ii) the services of any other person or agency.

(3) The terms and conditions of service of the officers and employees referred to in sub-section (1) and of the officers, employees, agencies and persons referred to in sub-section (2) (including such special conditions as may be considered necessary for enabling them to act without fear or favour in the discharge of their functions) shall be such as the President may determine, from time to time, in consultation with the Lokpal.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall be subject to the exclusive administrative control and direction of the Lokpal.

### CHAPTER III

#### JURISDICTION AND PROCEDURE IN RESPECT OF INQUIRIES

Jurisdiction of Lokpal.

10. (1) Subject to the other provisions of this Act, the Lokpal shall inquire into any matter involved in, or arising from, or connected with, any allegation made in a complaint:

Provided that the Lokpal shall not inquire into any matter involved in, or arising from, or connected with, any such allegation against the Prime Minister in so far as it relates to national security and maintenance of public order.

(2) The Lokpal may inquire into any act or conduct of any person other than a public functionary in so far as it considers it necessary so to do for the purpose of its inquiry into any such allegation:

Provided that the Lokpal shall give such person a reasonable opportunity of being heard and to produce evidence in his defence.

(3) No matter in respect of which a complaint may be made under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952.

60 of 1952.

Matters not subject to jurisdiction of Lokpal.

11. (1) The Lokpal shall not inquire into any matter concerning any person if the Chairperson or any Member has any bias in respect of such matter or person and if any dispute arises in this behalf, the President shall, on an application made by the party aggrieved, obtain, in such manner as may be prescribed, the opinion of the Chief Justice of India and decide the dispute in conformity with such opinion.

(2) The Lokpal shall not inquire into any complaint if the complaint is made after the expiry of ten years from the date on which the offence mentioned in such complaint is alleged to have been committed.



12. (1) Any person other than a public servant may make a complaint under this Act to the Lokpal. Complaints.

*Explanation.*—For the purposes of this sub-section, “public servant” means—

(a) any person who is a member of a defence service or of a civil service of the Union or a State or of an all-India service or holds any post connected with defence or any civil post under the Union or a State;

(b) any person in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company, as defined in section 617 of the Companies Act, 1956;

(c) any person in the service of any other institution, concern or undertaking which is established by or under a Central, Provincial or State Act or which is controlled, or financed wholly or substantially by funds provided, directly or indirectly, by the Central Government or a State Government.

(2) The complaint shall be in the prescribed form and shall set forth particulars of the offence alleged and shall be accompanied by fees prescribed, if any, an affidavit in support of such particulars and a certificate of deposit furnished under sub-section (3) or, if the complainant is unable to make the deposit, an application for exemption from the requirement as to such deposit.

(3) The complainant shall deposit such sum of money in such manner and with such authority or agency as may be prescribed and the certificate for such deposit shall be furnished in the prescribed form.

(4) Notwithstanding anything contained in the foregoing sub-sections, any letter written to the Lokpal or, as the case may be, to the appropriate authority, by a person in any jail or other place of custody or in any asylum or other place for insane persons may, if the Lokpal or, as the case may be, the appropriate authority is satisfied that it is necessary so to do, be treated as a complaint made in accordance with the provisions of this section.

(5) Notwithstanding anything contained in any other enactment, it shall be the duty of a police officer or other person in-charge of any jail or other place of custody or of any asylum or other place for insane persons to forward, without opening, any letter addressed to the Lokpal or to the appropriate authority by a person imprisoned or detained in such jail, place of custody, asylum or other place, to the Lokpal or the appropriate authority, as the case may be, without delay.

*Explanation.*—For the purposes of this section, “appropriate authority” means any of the authorities which the Lokpal may, by general or special order, in writing, determine to be the appropriate authority.

13. (1) If the Lokpal is satisfied, after considering a complaint and after making such verification as it deems appropriate that—

(a) the complaint is not made within a period of ten years as specified in sub-section (2) of section 11; or

(b) the complaint is manifestly false and vexatious,

the Lokpal shall dismiss the complaint after recording its reasons therefor and communicate the same to the complainant and to the competent authority.

(2) The procedure for verification in respect of a complaint under sub-section (1) shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular, the Lokpal may, if it deems it necessary so to do, call for the comments of the public functionary concerned.

Preliminary  
scrutiny of  
complaints by  
Lokpal.

Procedure in  
respect of  
inquiries.

14. (1) If, after the consideration and verification under section 13 in respect of a complaint, the Lokpal proposes to conduct any inquiry, it—

(a) shall forthwith forward a copy of the complaint to the competent authority;

(b) may make such orders as to the safe custody of documents relevant to the inquiry as it deems fit; and

(c) shall, at such time as it considers appropriate, forward a copy of the complaint to the public functionary concerned and afford him an opportunity to represent his case.

(2) Every inquiry shall be conducted by the Chairperson and the Members sitting jointly and the place in which such inquiry is conducted shall be deemed to be an open court to which the public generally may have access so far as the same can conveniently contain them:

Provided that in exceptional circumstances and for reasons to be recorded in writing, such inquiry may be conducted *in camera*.

(3) The Lokpal shall hold every such inquiry as expeditiously as possible and in any case complete the inquiry within a period of six months from the date of receipt of the complaint:

Provided that the Lokpal may, for reasons to be recorded in writing, complete the inquiry within a further period of six months.

(4) Save as aforesaid, the procedure for conducting any such inquiry shall be such as the Lokpal considers appropriate in the circumstances of the case.

Evidence.

15. (1) Subject to the provisions of this section, for the purpose of any inquiry (including the verification under section 13), the Lokpal—

(a) may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce any such document; and

(b) shall have all the powers of a civil court, under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

5 of 1908.

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing commissions for the examination of witnesses or documents; and

(vi) such other matters as may be prescribed.

(2) Any proceeding before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

45 of 1860.

(3) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant, whether imposed by any enactment or by any provision of law whatever shall apply to the disclosure of information for the purposes of any inquiry (including the verification under section 13) under this Act.

(4) The Government or any public servant shall not be entitled, in relation to any such inquiry or verification under section 13 to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any provision of law whatever in legal proceedings.

45 of 1860. *Explanation.*—For the purposes of this section, “public servant” shall have the same meaning as is in section 21 of the Indian Penal Code.

16. (1) If the Lokpal has reason to believe that any document which, in its opinion, shall be useful for, or relevant to, any inquiry under this Act, are secreted in any place, it may authorise any officer subordinate to it, or any officer of an investigating agency referred to in sub-section (2) of section 9, to search for and to seize such documents.

Search and seizure.

(2) If the Lokpal is satisfied that any document seized under sub-section (1) would be evidence for the purpose of any inquiry under this Act and that it would be necessary to retain the document in its custody, it may so retain the said document till the completion of such inquiry:

Provided that where any document is required to be returned, the Lokpal shall return the same after retaining copies of such document duly authenticated thereof.

2 of 1974.

(3) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 166 of the said Code shall have effect as if for the word “Magistrate”, wherever it occurs therein, the words “Lokpal or any officer authorised by it” were substituted.

17. (1) After the conclusion of inquiry, the Lokpal shall determine whether all or any of the offences alleged in the complaint have or has been proved to its satisfaction and by report in writing shall communicate its findings to the complainant, the public functionary and the competent authority.

Reports.

(2) The Speaker, in the case of the Prime Minister or a member of the House of the People, and the Chairman of the Council of States, in the case of a member of that Council shall, as soon as may be after the receipt of report under sub-section (1), cause the same to be laid before the House of the People or the Council of States, as the case may be while it is in session, and if the House of the People or the Council of States, as the case may be, is not in session, within a period of one week from the reassembly of the said house or the Council, as the case may be.

(3) The competent authority shall examine the report forwarded to it under sub-section (1) and communicate to the Lokpal, within a period of ninety days from the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.

(4) The Lokpal shall present annually to the President a consolidated report on the administration of this Act and the President shall, as soon as may be after and in any case not later than ninety days from the receipt of such report, cause the same, together with an explanatory memorandum, to be laid before each House of Parliament.

*Explanation.*—In computing the period of ninety days referred to in this sub-section, any period during which Parliament or, as the case may be, either House of Parliament, is not in session, shall be excluded.

#### CHAPTER IV

##### MISCELLANEOUS

18. The salaries, allowances and pensions payable to, or in respect of, the Chairperson and Members of the Lokpal, shall be expenditure charged on the Consolidated Fund of India.

Expenditure on Chairperson and Members to be charged on the Consolidated Fund of India.

Intentional  
insult or  
interruption  
to Lokpal.

19. (1) Whoever intentionally offers any insult, or causes any interruption, to the Lokpal while the Lokpal or any of its Members is making any verification or conducting any inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence referred to in sub-section (1) as they apply in relation to an offence referred to in sub-section (2) of the said section, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokpal.

2 of 1974.

Power of  
Lokpal to  
try certain  
offences.

20. (1) When any such offence as is described in sub-section (1) of section 19 is committed in the view or presence of the Lokpal, the Lokpal may cause the offender to be detained in custody and may, at any time on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, try such offender summarily, so far as may be, in accordance with the procedure specified for summary trials under the Code of Criminal Procedure, 1973, and sentence him to simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

2 of 1974.

(2) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement, if any, made by the offender as well as the finding and the sentence.

(3) Any person convicted on a trial held under this section may appeal to the Supreme Court.

(4) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

2 of 1974.

Disposal of  
deposit under  
section 12,  
etc., and  
penalty for  
*mala fide*  
complaint.

21. (1) The sum deposited by a complainant in pursuance of the provisions of section 12 shall,—

(a) in a case where the complaint is dismissed under sub-section (1) of section 13, stand forfeited to the Central Government;

(b) if the Lokpal, for reasons to be recorded in writing so directs, be utilised for compensating the public functionary complained against; and

(c) in any other case, be refunded to the complainant.

(2) If the Lokpal is satisfied that—

(a) all or any of the allegations made in a complaint have or has been substantiated either wholly or partly; and

(b) having regard to the expenses incurred by the complainant in relation to the proceedings in respect of such complaint and all other relevant circumstances of the case the complainant deserves to be compensated or rewarded,

the Lokpal shall determine the amount which shall be paid to the complainant by way of such compensation or reward and the Lokpal shall determine the person by whom the said compensation or reward shall be paid after giving that person a reasonable opportunity of being heard.

(3) Every person who makes any complaint which is held by the Lokpal to be false and filed with *mala fide* intention to harass the public functionary against whom such complaint is filed shall be punishable as provided in sub-section (4).

(4) When any offence under sub-section (3) is committed, the Lokpal may take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure specified for summary trials under the Code of

2 of 1974.

Criminal Procedure, 1973 and if such offender is found guilty of committing the offence, sentence him to imprisonment for a term which shall not be less than one year but which may extend to three years and also to fine which may extend to fifty thousand rupees and may also award where fine is imposed, out of the amount of the fine, to the public functionary against whom such false complaint has been made, such amount of compensation as the Lokpal thinks fit.

22. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 and subject to the other provisions of this Act, any case pending before the Lokpal under sub-section (4) of section 21 shall only be transferred to another criminal court in accordance with the procedure contained in section 406 of that Code and for the purposes of that section the Lokpal shall be deemed to be a Court of Session.

Application of  
Act 2 of 1974.

23. (1) The President may, by order in writing and subject to such conditions or limitations as may be specified in the order, require the Lokpal to inquire into any allegations (being an allegation in respect of which a complaint may be made) specified in the order in respect of a public functionary and subject to the provisions of section 13, the Lokpal shall comply with such order.

Conferment  
of additional  
functions on  
Lokpal.

(2) When the Lokpal is to make any inquiry under sub-section (1), the Lokpal shall exercise the same powers and discharge the same functions as it would in the case of any inquiry made on a complaint under this Act and the provisions of this Act (except section 21) shall apply accordingly.

24. If, at any stage of the inquiry, the Lokpal—

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

Persons likely  
to be  
prejudicially  
affected to be  
heard.

the Lokpal shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

25. (1) No suit, prosecution or other legal proceeding shall lie against the Lokpal or against any officer, employee, agency or person referred to in section 9, in respect of anything which is in good faith done or intended to be done under this Act.

Protection of  
action taken  
in good faith.

(2) Save as otherwise provided in this Act, no proceeding or decision of the Lokpal shall be called in question in any Court.

26. The Lokpal may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein, direct that any power conferred or duties imposed on it by or under this Act [except the powers under sub-section (1) of section 12, the power to dismiss a complaint under sub-section (1) of section 13, and the powers under section 21] may also be exercised or discharged by the officers, employees and agencies referred to in section 9, as may be specified in the order.

Power to  
delegate.

27. (1) The President may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.

Power to  
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the President shall obtain the opinion of the Chief Justice of India under sub-section (1) of section 11;

(b) the form of complaint under sub-section (2) of section 12 and the fees, if any, to be accompanied therewith;

(c) the manner in which and the authorities or agencies with whom deposit shall be made under sub-section (3) of section 12 and the form in which certificate shall be furnished in respect of such deposits;

(d) the matters referred to in sub-clause (vi) of clause (b) of sub-section (1) of section 15; and

(e) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Removal of doubts.

28. For the removal of doubts, it is hereby declared that nothing in this Act shall operate to confer or enable the conferring of any jurisdiction on the Lokpal to make any inquiry—

(a) into any allegation against or any act or conduct of—

(i) the President, the Vice-President or the Speaker of the House of the People;

(ii) the Chief Justice or any other Judge of the Supreme Court; and

(iii) the Comptroller and Auditor-General of India, the Chief Election Commissioner or other Election Commissioner or the Chairman or any other member of the Union Public Service Commission; or

(b) upon its own knowledge or information.

Saving.

29. Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of, functioning or exercise of powers by any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.

60 of 1952.

Consequential amendments of Act 60 of 1952.

30. In section 3 of the Commissions of Inquiry Act, 1952, in sub-section (1), for the words "The appropriate Government may", the words, brackets and figures "Subject to the provisions of sub-section (3) of section 10 of the Lokpal Act, 2001, the appropriate Government may" shall be substituted.

## THE SCHEDULE

[See section 3(3)]

I, A.B. ....having been appointed Chairperson (or a Member)  
of the Lokpal, do swear in the name of God that I will bear true faith and allegiance to the  
solemnly affirm  
Constitution of India as by law established, that I will duly and faithfully and to the best of  
my ability, knowledge and judgment perform the duties of my office without fear or favour,  
affection or ill-will.

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## STATEMENT OF OBJECTS AND REASONS

In its interim report on the "Problem of Redress of Citizens' Grievances" submitted in 1966, the Administrative Reforms Commission recommended, *inter alia*, the setting up of an institution of Lokpal.

2. To give effect to this recommendation of the Administrative Reforms Commission, a Bill, namely, the "Lokpal and the Lokayuktas Bill, 1968" was introduced in the Fourth Lok Sabha in 1968. The Bill was considered by a Joint Committee of Parliament and the Bill, as reported by the Joint Committee, was passed by the Lok Sabha in 1969. While this Bill was pending in Rajya Sabha, the Fourth Lok Sabha was dissolved and consequently, the Bill lapsed. In 1971, the Bill passed by the previous Lok Sabha was re-introduced in the Fifth Lok Sabha, namely, the "Lokpal and Lokayuktas Bill, 1971". This Bill also lapsed on the dissolution of the Fifth Lok Sabha.

3. A fresh Bill called the "Lokpal Bill, 1977" was introduced in the Sixth Lok Sabha in 1977. This Bill was referred to a Joint Committee of Parliament which submitted its report in July, 1978. When the Bill, as reported by the Joint Committee, was under consideration in the Lok Sabha, the Lok Sabha was prorogued and was subsequently dissolved and consequently that Bill also lapsed.

4. The Lokpal Bill, 1985 was introduced in the Eighth Lok Sabha and subsequently withdrawn. The Lokpal Bill, 1989 which sought to include the office of Prime Minister also within the jurisdiction of the Lokpal which was to be a three Member body was introduced in the Lok Sabha and lapsed with the dissolution of the Ninth Lok Sabha.

5. The Lokpal Bill, 1996 was introduced in the Eleventh Lok Sabha on 13-9-1996. Thereafter, it was referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report. The Standing Committee presented its report to the Parliament on 9-5-1997. Before the Government could finalise its stand on the various recommendations of the Committee, the Eleventh Lok Sabha was dissolved and the Bill also lapsed.

6. The Lokpal Bill, 1998 was introduced in the Lok Sabha on 3-8-1998. Thereafter, it was referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report. The Standing Committee presented its Report to the Parliament on this Bill on 25-2-1999. However, before the Government could take a view on the various recommendations made by the Parliamentary Standing Committee, the Twelfth Lok Sabha was dissolved and consequently the Bill also lapsed.

7. The salient features of the proposed Bill are as follows:—

(i) Setting up the office of Lokpal with a Chairperson and two Members for a fixed tenure;

(ii) With a view to ensuring that the Lokpal is able to act independently and discharge its functions without fear or favour, the Bill provides that the Chairperson or a Member of Lokpal shall not be removed from his office, except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Committee consisting of the Chief Justice of India and two other Judges of the Supreme Court next to the Chief Justice in seniority in which the *Chairperson* or Member, as the case may be, had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges;

(iii) To enable the Lokpal to function effectively and in a quasi-judicial manner, the powers of the civil court in respect of summoning and enforcing the attendance of any person and examining him on oath, requiring the discovery and production of any document and receiving evidence, etc., have been conferred on the Lokpal;



(iv) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal on the recommendations of a Committee consisting of the Vice-President of India, as Chairman, Prime Minister, Speaker of the House of the People, the Minister in charge of the Ministry of Home Affairs in the Government of India, Leader of the House other than the House in which the Prime Minister is a member of Parliament, the Leader of Opposition in the House of the People and Leader of Opposition in Council of States as members.

(v) The public functionaries directly or indirectly elected by and responsible to the public, such as, members of Parliament, Prime Minister and Ministers have been brought within the purview of the Bill but other constitutional functionaries such as Judges of the Supreme Court, the Election Commissioners, etc., have been kept out of the purview of the Bill.

(vi) The Lokpal will inquire into complaints alleging that a public functionary as defined in the Bill has committed an offence punishable under the Prevention of Corruption Act, 1988 and the expression "public functionary" covers the Prime Minister, the Ministers, the Ministers of State, the Deputy Ministers and the Members of Parliament. It seeks to carry out in this respect the recommendations of the Administrative Reforms Commission for enabling the citizens to have recourse to a convenient and effective forum for determination of complaints and thereby save them from pursuing their remedies through the process of courts.

(vii) The Bill also seeks to make special provisions for discouraging frivolous, vexatious, and false complaints.

8. The Bill seeks to achieve the above objects.

NEW DELHI;  
The 9th July, 2001.

VASUNDHARA RAJE.

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PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE  
CONSTITUTION OF INDIA

[Copy of letter No. 407/2/2001-AVD. IV, dated the 29th June, 2001 from Shrimati Vasundhara Raje, Minister of State for Personnel and Pensions to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Lokpal Bill, 2001 recommends the introduction and consideration of the Bill in Lok Sabha under article 117(1) and (3) of the Constitution.

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*Notes on clauses*

*Clause 1* deals with the short title and commencement of the proposed legislation which provides that it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

*Clause 2* seeks to define certain expressions used in the Bill.

*Clause 3* seeks to provide for the establishment of Lokpal consisting of a Chairperson and two Members. The Chairperson shall be a person who is or has been the Chief Justice or a Judge of the Supreme Court. The Members shall be the persons who are, or have been, the Judges of the Supreme Court or the Chief Justices of the High Courts.

*Clause 4* seeks to provide the appointment of Chairperson and Members of Lokpal. The Chairperson and Members shall be appointed after obtaining the recommendations of a Committee consisting of the Vice-President of India, the Prime Minister, the Speaker of the House of the People, the Minister in-charge of Home Affairs in the Government of India, the Leader of the House other than the House in which the Prime Minister is a member of Parliament, the Leader of the Opposition in the House of the People and the Leader of the Opposition in the Council of States.

*Clause 5* seeks to provide that the Chairperson and the Members shall be ineligible to hold other offices.

*Clause 6* deals with the term of office and other conditions of service of the Chairperson and Member of the Lokpal. The conditions of service, salary, allowances and pension of the Chairperson shall be the same as those of the Chief Justice of India. The salary of other Member shall be the same as those of a Judge of the Supreme Court. After a person is appointed as the Chairperson or a Member, his conditions of service, allowances and pension payable to him shall not be varied to his disadvantages.

*Clause 7* deals with the removal of Chairperson and Members.

*Clause 8* seeks to provide that the senior-most Member shall act as the Chairperson or discharge his functions in certain circumstances.

*Clause 9* deals with the staff of the Lokpal and the powers of the Lokpal to utilize the services, *inter alia*, of any investigating agencies of the Government and of any other agencies.

*Clause 10* deals with the jurisdiction of the Lokpal. Sub-clause (1) seeks to provide that the Lokpal may inquire into any matter involved in, or arising from or connected with any allegation made in a complaint. Sub-clause (2) seeks to provide that the Lokpal may conduct an inquiry into any act or conduct of any person other than a public functionary concerned if it considers necessary to do so for the purposes of his inquiry into any allegation. Sub-clause (3) seeks to provide that no matter in respect of which a complaint may be made under the proposed enactment shall be referred for inquiry under the Commissions of Inquiry Act, 1952.

*Clause 11* seeks to provide that the Lokpal shall not inquire into any matter concerning any person if the Chairperson or any other Member has any bias in respect of such matter or person. This clause also seeks to provide that the Lokpal shall not inquire into any complaint made after the expiry of a period of ten years from the date of the commission of the offence mentioned in the complaint.

*Clause 12* seeks to provide that any person other than a public servant as defined therein may file a complaint which shall be in the prescribed form and shall be accompanied by an affidavit. This clause also seeks to provide that the complainant shall deposit such sum of money in such manner and with such authority or agency as may be prescribed and the certificate for such deposit shall be furnished in the prescribed form.

*Clause 13* deals with the preliminary scrutiny of complaints by the Lokpal.

*Clause 14* seeks to provide for the procedure for making inquiries into the complaints by the Lokpal. This clause also seeks to provide that the Lokpal shall complete the inquiry within six months from the date of the receipt of the complaint, which could be extended for a further period of six months by the Lokpal for reasons to be recorded in writing.

*Clause 15* seeks to provide that the Lokpal shall have all the powers of civil court in respect of summoning and enforcing the attendance, receiving evidence and issuing commissions for the examination of witnesses or documents, etc. This clause also seeks to provide that the proceedings before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

*Clause 16* seeks to confer powers of search and seizure on the Lokpal.

*Clause 17* relates to reports of the Lokpal and action taken thereon. Sub-clause (1) seeks to provide that after inquiry the Lokpal shall communicate its findings to the complainant, the public functionary and the competent authority. This clause also seeks to provide that the annual consolidated report shall be presented by the Lokpal to the President on the administration of the proposed enactment.

*Clause 18* seeks to provide that the salaries, allowances and pensions payable to the Chairperson and Members of the Lokpal shall be charged on the Consolidated Fund of India.

*Clause 19* seeks to provide for punishment for intentional insult or interruption to the Lokpal.

*Clause 20* seeks to confer powers on the Lokpal to try summarily and punish those persons who intentionally offers any insult, or causes any interruption, to the Lokpal.

*Clause 21* seeks to provide for the disposal of deposits made by the complainants under clause 12. This clause also seeks to provide for action to be taken by the Lokpal in the case of *mala fide* complaints.

*Clause 22* seeks to provide for application of certain provisions of the Code of Criminal Procedure, 1973 to the proceedings before the Lokpal.

*Clause 23* seeks to provide for the conferment of additional functions by the President on the Lokpal.

*Clause 24* seeks to provide that if at any stage of inquiry, any person is likely to be prejudicially affected shall be afforded an opportunity of being heard.

*Clause 25* seeks to provide for protection from legal proceedings, etc., for the action taken in good faith.

*Clause 26* deals with the delegation of certain powers by the Lokpal.

*Clause 27* seeks to confer power on the President to make rules.

*Clause 28* seeks to make it clear that the Lokpal shall not have any jurisdiction to conduct any inquiry into any allegation against or any act or conduct of the President, the Vice-President or the Speaker of the House of the People, the Chief Justice or any other Judge of the Supreme Court, the Comptroller and Auditor-General of India, the Chief Election Commissioner or other Election Commissioners or the Chairman or any other Member of the Union Public Service Commission. It also provides that the Lokpal shall not make any inquiry upon its own knowledge or information.

*Clause 29* seeks to provide that the provisions of the proposed enactment shall not affect the constitution of, or the continuance of functioning or exercise of powers by, any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the coming into force of the provisions of the proposed enactment.

*Clause 30* seeks to make a consequential amendment in the Commissions of Inquiry Act, 1952.

### FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for the establishment of the Lokpal consisting of a Chairperson and two other Members. Sub-clause (3) of clause 6 of the Bill envisages that the salary, allowances and all other conditions of service of, the Chairperson shall be the same as those of the Chief Justice of India and the Members as those of the Judges of the Supreme Court. This sub-clause also provides that the salary payable to the Chairperson and other Members shall be reduced by any pension and pension equivalent to other pensionary benefits to which the Chairperson or a Member may be entitled to in respect of any previous service under the Government of India or under the Government of a State.

2. Sub-clause (1) of clause 9 provides that the Lokpal shall, for the purpose of assisting it in the discharge of its functions under the Bill, appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with Lokpal. Sub-clause (2) of clause 9 empowers the Lokpal to secure for the purpose of dealing with any complaint or any classes of complaints, the services of any officer or employee or investigating agency of the Central Government or a State Government with the concurrence of that Government or the services of any other person or agency. The terms and conditions of such officers, employees, agencies and persons shall be such as the President may determine, from time to time, in consultation with the Lokpal.

3. Clause 18 of the Bill provides that the salaries, allowances and pensions payable to, or in respect of, the Chairperson and Members of the Lokpal, shall be expenditure charged on the Consolidated Fund of India.

4. At this stage, it is not possible to give precise details of the expenditure to be incurred on the Lokpal. It is, however, expected that the Bill, when enacted, will involve a non-recurring expenditure of rupees seventy-five lakhs and a recurring expenditure of rupees one crore and fifty lakhs in a year. In case it becomes necessary to construct a building to house the establishment of the Lokpal, additional expenditure of a non-recurring nature of the order of rupees one crore and fifty lakhs may also be involved.

5. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the President to make rules for the purpose of carrying into effect the provisions of proposed enactment. The various matters in relation to which such rules may be made have been enumerated in detail under various items of sub-clause (2) of that clause and relate to the manner in which the President shall obtain the opinion of the Chief Justice of India under sub-clause (1) of clause 11, the form of complaint under sub-clause (2) of clause 12 and the fees, if any, to be accompanied therewith; the manner in which and the authorities or agencies with whom deposits shall be made under sub-clause (3) of clause 12 and the form in which certificate shall be furnished in respect of such deposits, the matters referred to in clause 15(1)(b)(vi), and any other matter which may be prescribed. These are matters of detail necessary for effective administration of the provisions of the Bill and it is difficult to provide for all the situations in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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G. C. MAI HOTRA,  
*Secretary General.*

